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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,029	03/28/2001	Jeffrey Wissing	NC17377	3683

32294 7590 06/02/2005

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EXAMINER

WAHBA, ANDREW W

ART UNIT PAPER NUMBER

2661

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/820,029		WISSING ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Andrew W. Wahba		2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/25/2005</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the following:

- a. Label element 105 in Figure 1a.
- b. Label Figure 155 in Figure 1b.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Tate et al (US Patent 6,400,803). Tate et al discloses a method and apparatus for routing an

incoming call at a CPE to a POTS outlet when DSL modem is in lifeline mode as illustrated in FIG 3 (column 4, lines 28-32).

With regard to claims 7 and 8, Tate et al discloses a CPE 300 that in normal operation, when local power is provided, switch 301 connects between the subscriber loop port 340 and the DSL modem 310. Similarly, switches 331-4 (SLIC) are operated to provide direct connections from the DSL modem 310 to ports 351-354 (column 4, lines 46-50). Upon loss of local power (loop current detector / removal of power), switches 301 and 331-4 (means for providing / relay operable) are arranged to default to provide a direct connection between the subscriber loop port 340 to subscriber ports 351-4 (column 4, lines 50-54). In lifeline mode, only one channel (connect a voice conductor pair) can be supported between the subscriber loop port 340 and one of the local subscriber ports 351-354 and the normal mode functionality of the DSL modem 310 (master DSL modem) 310 is unavailable (quiescent state) to direct incoming calls to the relevant port (column 4, lines 54-58). Lifeline router 320 (DSL suppression circuit) is in use when the modem has lost local power (column 5, lines 17-18).

4. Claims 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Verbin et al (US Patent 6,520,744).

With regard to claim 9, Verbin et al discloses an off-hook detector 117 (detecting whether a line has a off-hook condition or an on-hook condition) that detects if either or both telephone instruments 109 and 110 connected by way of DSL 103 (customer premise line) go to an off-hook state (column 5, lines 1-5). If the off-hook detector

detects a change in the hookswitch status (on-hook condition) it passes a signal (energizing a relay) to the ADSL modem 107 (DSL modem) (column 5, lines 20-25).

With regard to claim 10, Verbin et al discloses that closure of a hookswitch (off-hook condition) causes considerable current (current drain) to flow through the subscriber loop (column 5, lines 5-17).

With regard to claim 11, it is inherent that the CO 102 has a processor and that it would be turned on (booting) (column 5, lines 18-21).

With regard to claim 12 and 13, Verbin et al discloses an off-hook detector 117 that detects if either or both telephone instruments 109 and 110 connected by way of DSL 103 (customer premise line / line / subscriber line) go to an off-hook state (column 5, lines 1-5). An interface (SLIC) between the CO 102 and DSL 103 is inherent for communication between these two disclosed elements to occur. If the off-hook detector detects a change in the hookswitch status it passes a signal (energizing a relay) to the ADSL modem 107 (DSL modem) (column 5, lines 20-25).

### ***Response to Arguments***

5. Applicant's arguments filed 12/22/2004 have been fully considered but they are not persuasive.

With regard to claim 7, applicant argues that "Tate does not discloses or suggest a detector that detects current drain before routing calls during a fault condition" (page 12). Tate et al discloses that upon loss of local power (fault condition), switches 301 and 331-4 are arranged to default to provide a direct connection (routing calls) between

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the subscriber loop port 340 to subscriber ports 351-4 (column 4, lines 50-54). Loss of power and loss of current, or applicant's current drain, are equivalent.

With regard to claim 9, applicant argues that "Verbin does not disclose or suggest the features of energizing a relay to couple the line to any DSL modem, wherein the line has an on-hook condition" (page 14). Verbin et al discloses that if the off-hook detector detects a change in the hookswitch status (on-hook condition) it passes a signal (energizing a relay) to the ADSL modem 107 (DSL modem) (column 5, lines 20-25).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

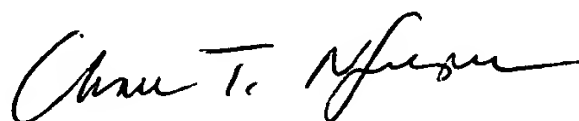
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Wahba whose telephone number is (571) 272-3081. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted,

Andrew Wahba  
Patent Examiner  
May 19, 2005



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
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